



June 5, 2001

Ms. Judith A. Hunter
Paralegal
City of Georgetown
P.O. Box 409
Georgetown, Texas 78627-0409

OR2001-2342

Dear Ms. Hunter:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 148018.

The City of Georgetown (the "city") received a request for documents related to a request by the Chisholm Trail Special Utility District ("Chisholm Trail") to convert into a Water Control Improvement District, documents related to negotiations between the city and Chisholm Trail pertaining to the above request, and documents related to a proposal by the city to obtain new certificate of convenience and necessity areas from Chisholm Trail. You state that you will release most of the responsive information. You claim, however, that the bracketed portions of the submitted document are excepted from disclosure pursuant to section 552.107 of the Government Code. We have considered the exception you claim and have reviewed the information at issue.

Section 552.107(1) excepts information that an attorney cannot disclose because of a duty to his client. In Open Records Decision No. 574 (1990), this office concluded that section 552.107 excepts from public disclosure only "privileged information," that is, information that reflects either confidential communications from the client to the attorney or the attorney's legal advice or opinions; it does not apply to all client information held by a governmental body's attorney. *See id.* at 5. When communications from attorney to client do not reveal the client's communications to the attorney, section 552.107 protects them only to the extent that such communications reveal the attorney's legal opinion or advice. *See id.* at 3. In addition, basically factual communications from attorney to client, or between attorneys representing the client, are not protected. *See id.* A governmental body bears the

burden under section 552.107(1) of explaining how the requested information constitutes either a client confidence or a communication of legal advice or opinion. *See* Open Records Decision No. 589 (1991). After reviewing the submitted document, we agree that some of the bracketed information is excepted from disclosure under section 552.107 and may be withheld. However, it does not appear, nor do you adequately explain, how the remaining bracketed information consists of a client confidence or an attorney's legal advice or opinion. Therefore, you may not withhold the remaining bracketed information under section 552.107.

You also claim that the bracketed information is protected from disclosure under Rule 503 of the Texas Rules of Evidence. We generally do not address discovery and evidentiary rules that may or may not be applicable to information submitted to our office by a governmental body. *See* Open Records Decision No. 416 (1984) (finding that even if evidentiary rule specified that certain information may not be publicly released during trial, it would have no effect on disclosability under Public Information Act). You argue that Rule 503 is "other law" that makes the bracketed information confidential. However, "[t]he Texas Rules of Civil Procedure and the Texas Rules of Evidence are 'other law' within the meaning of section 552.022." *In re City of Georgetown*, No. 00-0453, 2001 WL 123933, at *14 (Tex. Feb. 15, 2001). The document that you submitted to us does not fall into one of the categories of information made expressly public by section 552.022 of the Government Code. Therefore, since Rule 503 of the Texas Rules of Evidence is not applicable in this instance, the remaining bracketed information must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental


body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/RJB/seg

Ref: ID# 148018

Encl. Marked document

cc: Mr. Carter Nelsen
Austin American-Statesman
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Round Rock, Texas 78664
(w/o enclosures)